

EXHIBIT F

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PATRICIA DESANTIS,
individually and as Successor
in Interest for RICHARD
DESGANTIS, deceased, and as
Guardian Ad Litem for DANI
DESGANTIS, a minor and TIMOTHY
FARRELL, a minor,

CERTIFIED COPY

Plaintiffs,

vs.

CASE NO. C 07 3386 JSW

CITY OF SANTA ROSA, JERRY
SOARES, RICH CELLI, TRAVIS
MENKE, PATRICIA MANN and DOES
through 25, inclusive,

Defendants.

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DEPOSITION OF TRAVIS MENKE

November 15, 2007

Pages 1 through 117

Reported by: HANNAH KAUFMAN & ASSOCIATES, INC.
JUDY A. MANFRED Certified Shorthand Reporters
CSR No. 4748 472 Pacheco Street
San Francisco, California 94116
(415) 664-4269

1 Q. Oh, I'm sorry. And the Desantis residence is
2 part of beat 7?

3 A. Yes.

4 Q. And what information did you have at the time you
5 arrived at the scene? And when I say scene, I'm talking
6 about the area where the shooting occurred.

7 A. What information did I have from?

8 Q. Any source, dispatch or otherwise, about what to
9 expect or -- what had happened or what to expect when you
10 got there.

11 A. Dispatch dispatched me to the scene, reported man
12 firing a gun in his residence.

13 Q. Did you have any other information?

14 A. There was mention made of a Glock gun. There was
15 a wife and two children in the house.

16 Q. Anything else?

17 A. Not that I recall.

18 Q. Do you recall hearing anything about mental
19 illness or bipolar?

20 A. I don't recall.

21 Q. What's a Glock?

22 A. A Glock is a manufacturing of a firearm. It's a
23 firearm company. It manufactures primarily handguns.

24 Q. So the information you had was that there was a
25 man firing a handgun. By Glock you assumed it was a

1 handgun?

2 A. Yes.

3 Q. Inside a residence and there was a wife and two
4 kids, correct?

5 A. Yes.

6 Q. And did you have information whether anyone had
7 been injured or shot?

8 A. No.

9 Q. Okay. Was that something you wanted to know?

10 A. Yes.

11 Q. And did you try to find out?

12 A. Yes.

13 Q. And what did you do to find out if anybody had
14 been shot?

15 A. I drove to the scene to investigate.

16 Q. Did the dispatcher have any information on that?

17 MS. FOWLER: I'll object on the ground it calls
18 for speculation.

19 MR. SCOTT: Q. Okay. If you don't know, say you
20 don't know.

21 A. I don't recall.

22 Q. Do you recall if the dispatcher said anything
23 about whether anyone had been shot?

24 A. I don't recall.

25 Q. On occasion do you talk to the dispatcher to try

1 Q. So your plan was to kind of sneak up on the house
2 and not let the man with a gun know you were there?

3 A. Yes.

4 Q. Because you're hoping to, what, get some element
5 of surprise?

6 A. Officer safety.

7 Q. Okay. And what weapons did you have in your
8 patrol car that night when you arrived at the scene?

9 MS. FOWLER: In the car as opposed to on his
10 belt?

11 MR. SCOTT: Q. Yes, in the car.

12 A. The shotgun is in the car.

13 Q. Anything else?

14 A. I keep my Taser in the car.

15 Q. In the trunk or in the -- up front?

16 A. I keep it in a bag. Usually I keep it in the
17 front seat.

18 Q. Did you have it with you that night?

19 A. No.

20 Q. Why not?

21 A. Because I don't carry it on my belt.

22 Q. You left it in the car?

23 A. Yes.

24 Q. Why did you leave the Taser in the car?

25 A. Because I was in a hurry to get to the scene and

1 Q. And did you walk, run or go in some other
2 fashion?

3 A. Walked.

4 Q. Why did you walk?

5 A. It was a brisk walk. I didn't know specifically
6 where the house was and I was trying to move tactically
7 quietly staying out of the light.

8 Q. Had you drawn your handgun at that point?

9 A. At getting out of my car?

10 Q. Yes.

11 A. Yes, I did.

12 Q. Why?

13 A. Because there was a subject shooting a gun and I
14 wanted to be prepared. And at that point I was not sure
15 what I was walking into so for my safety I drew my
16 handgun.

17 Q. What kind of handgun did you have with you that
18 night?

19 A. It's the H&K 40-caliber semi-automatic pistol.

20 Q. Do you have it with you here today?

21 A. No.

22 Q. Why not?

23 A. It's my duty firearm.

24 Q. Do you have another weapon that you carry off
25 duty?

1 goes back to -- let me see -- 15 or 17 back to 20 -- 20 or
2 25, something like that.

3 Q. So the closest is ten yards or 30 feet?

4 A. I think. I don't recall specifically.

5 Q. Something in that ball park?

6 A. Yeah.

7 Q. How far was Mr. Desantis from you when you fired
8 at him?

9 A. When I fired at him he was approximately 10 to
10 15 feet.

11 Q. And was he coming right at you?

12 A. Yes.

13 Q. And where did you aim?

14 A. Center mass.

15 Q. Could you tell whether you hit him?

16 A. No.

17 Q. And when you fired at him was he standing?

18 A. Yes.

19 Q. And how far -- did he take some steps after that
20 before he fell, or did he just drop after you shot him?

21 A. He just dropped.

22 Q. Okay. Was he running toward you when you shot
23 him?

24 A. Yes.

25 Q. And did it appear to you that the shot that you

1 fired caused him to just kind of stop in mid air and his
2 momentum just stopped and he dropped?

3 A. I pulled the trigger and he kind of turned to his
4 left and fell.

5 Q. How fast was he running towards you when you
6 fired?

7 A. He was in a dead sprint. I don't know how fast
8 he was going, but it was human sprinting speed.

9 Q. And how many steps would he have had to taken to
10 reach you?

11 MS. FOWLER: At the point in time when he shot
12 him?

13 MR. SCOTT: Q. Yes.

14 A. I don't know how long his stride was. He was
15 within 10 to 15 feet so estimate maybe four strides,
16 maybe.

17 Q. Okay. And did you see him take any strides after
18 you shot?

19 A. No.

20 Q. Which way did he fall?

21 A. He kind of spun to his left and fell back onto
22 his back. So it would be he spun his left to my left,
23 turned to my right, fell to his -- kind of fell back to
24 his left -- excuse me, my left.

25 Q. When he fell how far away was he from you?

1 A. M-hm, yes.

2 Q. And his arms were moving like a sprinter?

3 A. Yes.

4 Q. And you could see his hands?

5 A. Yes.

6 Q. Did you see anything in his hands?

7 A. No.

8 Q. And what were you afraid he was going to do if
9 you hadn't shot him?

10 A. Kill me.

11 Q. And how did you think he was going to kill you?

12 A. With a gun.

13 Q. With what gun?

14 A. The gun I assumed he had.

15 Q. And did you shoot him because you assumed he had
16 a gun?

17 A. Under the circumstances I think it was within
18 reason to assume he had a gun, yes, he was armed.

19 Q. So it would be fair to say that you shot because
20 you assumed he had a gun?

21 A. I shot because I thought he was coming to kill
22 me.

23 Q. Did you think he was going to kill you with a gun
24 you assumed he had?

25 A. I felt it was reasonable.

1 Q. Then if he was going to shoot you with a gun, why
2 would he run at you? Why not just stop, pull out the gun
3 and fire?

4 A. I don't know.

5 Q. Okay. Are you right or lefthanded?

6 A. Righthanded.

7 Q. When you initially got to the scene, you walked
8 from your patrol car and you had your weapon drawn.
9 What's the first thing you did when you got to the -- in
10 the vicinity of the residence and the parking lot or the
11 driveway?

12 A. The first thing I did when I got to the driveway?

13 Q. Yes.

14 A. I took cover and concealment around the corner of
15 the house.

16 Q. And what was the lighting like?

17 A. Dim.

18 Q. Were you able to see the Desantis -- what you
19 discovered was the Desantis house?

20 A. Yes.

21 Q. And did you see anyone in the vicinity of the
22 house?

23 A. Yes.

24 Q. Who did you see?

25 A. I saw a man and a woman.

1 Q. What were they doing?

2 A. They were talking or looking -- they were
3 possibly talking in front of the -- front of the
4 residence -- or the front door of the residence.

5 Q. Okay. And was the woman talking on the phone?

6 A. I don't recall.

7 Q. You don't recall if you saw --

8 A. I don't believe so.

9 Q. -- a phone in her hand?

10 A. Hm-m.

11 Q. But you saw a man and a woman near the front of
12 the house --

13 A. M-hm.

14 Q. -- near the front door talking?

15 MS. FOWLER: You need to say yes or no.

16 THE WITNESS: Oh. Yes.

17 MR. SCOTT: Q. Did they appear to be arguing?

18 A. I couldn't hear anything.

19 Q. So they weren't yelling, at least it didn't seem
20 like they were yelling?

21 A. They were not -- I don't recall them yelling, no.

22 Q. And did you see anyone else other than the man
23 and the woman?

24 A. No.

25 Q. And at this point did you believe that this was

1 weapons?

2 A. I saw them when they were walking up, and then as
3 soon as I saw Mr. Desantis I kind of focused on him so I
4 didn't look back to check.

5 Q. Did you ever look back to check before you fired?

6 A. No.

7 Q. Okay. So from that moment when you observed
8 Sergeant Celli and Sergeant Soares arrive, to the time you
9 pulled the trigger, you just kept your eyes on
10 Mr. Desantis and never looked back at Sergeant Celli or
11 Sergeant Soares and never talked to them; is that correct?

12 A. Yes.

13 Q. And they never talked to you; is that right?

14 A. I don't think so.

15 Q. Was it your understanding that someone was in
16 command of the scene for tactical purposes?

17 A. No.

18 Q. Did you get any information from any source that
19 there was someone at the scene there, one of the
20 sergeants, who was in command for tactical purposes?

21 A. I knew the sergeants were there, but I -- due to
22 this was all happening very rapidly, there was really no
23 time for anybody to sort of develop any plan or, you know,
24 tactical response, as you put it.

25 Q. From the time you arrived how much time passed to

1 the time you fired your weapon?

2 A. I would estimate just within a couple minutes;
3 quickly.

4 Q. Did you make a split second decision at the
5 scene?

6 MS. FOWLER: Object. Vague and ambiguous as to
7 split second decision. About what?

8 MR. SCOTT: About anything.

9 Q. Did you make any split second decisions in those
10 two minutes?

11 MS. FOWLER: Object. Vague and ambiguous.

12 THE WITNESS: I can't answer that.

13 MR. SCOTT: Q. Okay. Now, you took the position
14 of cover. And I'd like to mark as an exhibit -- I've got
15 a blank one, and at some point if you want to look at the
16 one that was used before, you can, but I'd like you to --
17 and just so you know I'm not trying to play any games here
18 or trick you, but I'd like to get your testimony on this
19 and so I'm going to mark this as Exhibit number 1.
20 There's a copy for you counsel. Do you want to make this
21 2?

22 MR. FOWLER: Yeah.

23 MR. SCOTT: Let's make this Exhibit 2. So we'll
24 just go kind of chronologically with numbers.

25 (Plaintiffs' Exhibit 2 marked for

1 or to that effect?

2 A. Yes.

3 Q. And you wanted him to stop?

4 A. Yes.

5 Q. And you wanted to see his hands?

6 A. Yes.

7 Q. Why did you want to see his hands?

8 A. So that I could see he was not armed or see that
9 there was not a gun in his hand.

10 Q. When you saw him for that minute or so talking
11 with a woman, did you see anything in his hands?

12 A. Did I see anything -- I couldn't really see them
13 that well. It was rather dark out; I couldn't tell.

14 Q. Was it too dark to see if he had a gun in his
15 hand?

16 A. Too dark to see?

17 Q. If he had a gun in his hand?

18 MS. FOWLER: At that point in time?

19 MR. SCOTT: Q. Yes.

20 A. I believe it's possible he could have had a gun
21 in his hand at that time.

22 Q. And you would have not seen it?

23 A. And I would have not seen it, no.

24 Q. Do you think he could see you?

25 A. At what point?

1 are authorized to wear, but I don't recall specifically.
2 They typically wear the jump suit which is like a full
3 zip-up uniform, but they also generally wear the BDU
4 uniform.

5 Q. What is a BDU --

6 A. Basic duty utility uniform. It's -- essentially
7 it's a similar kind, but it doesn't have the metal badges.
8 They have pockets on the pants. Obviously, leashes, and
9 the equipment they have to carry, it's more useful for
10 them than your basic patrol officer.

11 Q. Do you recall what Sergeant Celli was wearing
12 that night?

13 A. I believe it was just a standard police uniform
14 with the sergeant stripes and...

15 Q. Do you recall what Sergeant Soares was wearing
16 that night?

17 A. I believe it was the same.

18 Q. What about Officer Jones, do you recall what he
19 was wearing?

20 A. I don't recall.

21 Q. Now, when you first called out to Mr. Desantis
22 with the commands you've described, where was Officer
23 Mann, do you know?

24 A. She was to my right.

25 Q. Was she in a position of cover?

1 A. Yes.

2 Q. And your response was to verbalize a command to
3 tell him words to the effect, stop, put your hands where I
4 can see them?

5 A. Yes.

6 Q. And what did Mr. Desantis do in response to that
7 command?

8 A. After several commands he turned -- okay?

9 Q. Yeah, we have to stop this tape, but you can
10 finish this answer?

11 A. After several commands he stopped, turned around,
12 put his hands up.

13 MR. SCOTT: We need to take a break to change
14 tapes, so let's take a short break.

15 THE VIDEOGRAPHER: This marks the end of volume
16 1, videotape 1, in the deposition of Travis Menke on
17 November 15th, 2007. The time now is 4:05 and we're off
18 the record.

19 (Brief recess taken from 4:05 p.m. to 4:26 p.m.)

20 THE VIDEOGRAPHER: This marks the beginning of
21 volume 1, videotape number 2 in the deposition of Travis
22 Menke on November 15th, 2007 in the matter of Patricia
23 Desantis, et al., versus City of Santa Rosa, et al., in
24 the United States District Court, Northern District of
25 California, case number C 07 3386 JSW. Today's date is

1 November 15th, 2007 and the time is 4:26. Back on the
2 record.

3 MR. SCOTT: Q. If we could get back to the
4 diagram and kind of where we were in our time line, now
5 you have just made some commands and -- towards
6 Mr. Desantis. The first time you made a command did he
7 react at all? Did he stop walking or just keep walking?

8 A. I believe at that point he stopped and turned.

9 Q. With your initial command?

10 A. Yes.

11 Q. And approximately how far was he from the front
12 door of the residence when he stopped and turned?

13 A. I believe he was at the base of the steps.

14 Q. And could you still see his wife?

15 A. She was out front also.

16 Q. So she was still in plain view?

17 A. Yes.

18 Q. And after he stopped and turned, what did you do
19 next?

20 A. I told him to get his hands in the air, get his
21 hands high, something of that line.

22 Q. What did he do?

23 A. As I recall, he didn't do it initially. I had to
24 keep yelling at him to get his hands up.

25 Q. Approximately how many times?

1 A. I believe two to three.

2 Q. And after those two to three commands to put his
3 hands up, did he?

4 A. Yes.

5 Q. So he put his hands in the air?

6 A. Yes.

7 Q. With palms open?

8 A. I don't recall.

9 Q. And you wanted to see his hands because you
10 wanted to see if he had a weapon in his hands, right?

11 A. Yes.

12 Q. And you were expecting to see a gun or possibly
13 see a gun?

14 A. It was reasonable to assume that, yes.

15 Q. And did you see a gun in his hands?

16 A. Not that I could see at that point.

17 Q. Did you ever see a gun in his hands?

18 A. No.

19 Q. So he put his hands in the air, and for how long
20 was he standing there with his hands in the air?

21 A. Mr. Desantis dropped his hands several times, so
22 he put them up for maybe a couple seconds. I told him to
23 walk towards the sound of my voice. He then proceeded --
24 obviously, there were several commands. He would drop his
25 hands, so for the first time I told him to put his hands

1 up, he held them up for a couple seconds.

2 Q. When he dropped his hands did he at any time put
3 his hands in his pockets?

4 A. Not that I could tell.

5 Q. Did it appear that he put his hands behind his
6 back?

7 A. Not that I could tell. I don't recall.

8 Q. Do you recall that you were -- when he dropped
9 his hands you could still see his hands?

10 A. I didn't have a very good view of his left hand
11 at that point. Obviously, he wasn't -- he was positioned
12 somewhat facing me, but I was able to see much more of his
13 right side. I couldn't see his back or anything. He
14 dropped his hands and I immediately began yelling to, get
15 your hands back in the air, and repeating the commands.

16 Q. How many times did he drop his hands and then
17 raise them again?

18 A. Approximately two, maybe more.

19 Q. And when he dropped his hands, for how long were
20 they dropped before he raised them again?

21 A. Maybe just a couple seconds.

22 Q. And did this happen before he started walking
23 towards you?

24 A. Yes.

25 Q. Why did you want him to walk toward you?

1 A. I wanted him to get in a position away from the
2 front door, away from any barriers that he could hide
3 behind position of cover. In my training, basically, you
4 want a person that is out of the middle of -- in the open.
5 I wanted him to come to the middle of the driveway. That
6 was a safer place for him to be.

7 Q. Okay. Safer for you?

8 A. Safer for him me and him.

9 Q. Why was it safer for him?

10 A. If he were, to say -- I wouldn't want to, you
11 know, put him down behind a truck or something like that
12 to where, you know, if we could see any movements we could
13 give commands. We wanted to be able to see his whole
14 body.

15 Q. And you didn't want to put him in a position
16 where he could have cover, right?

17 A. Yes.

18 Q. Was anyone else giving commands at the time you
19 were giving commands that you could hear?

20 A. Not that I could hear, no.

21 Q. And approximately how many steps did he take in
22 your direction before he stopped?

23 A. I don't know how many steps he took. I was not
24 looking really at his feet. I was looking at his arms,
25 his hands, his upper body.

1 Q. And did you have -- in your mind was there a
2 place where you wanted him to stop and get down on the
3 ground?

4 A. Yes.

5 Q. When he got near that location did you tell him
6 to stop?

7 A. Yes.

8 Q. And approximately how far away from you was he
9 when you told him to stop?

10 A. Approximately 40 to 50 feet.

11 Q. And was that a distance you felt that was safe?

12 A. Yes.

13 Q. Was he walking toward you when you told him to
14 walk?

15 A. He was walking towards my general area, yes.

16 Q. And do you believe he could see you?

17 A. I believe so.

18 Q. And you were able to see him?

19 A. Yes.

20 Q. Do you believe he could see Officer Mann?

21 A. I'd say probably, yes.

22 Q. Do you believe he could see Officer Ellsworth?

23 A. I don't know.

24 Q. And do you believe he could see Officer Jones?

25 A. I don't know.

1 Q. Do you believe he could see Sergeant Soares?

2 A. I don't know.

3 Q. You just didn't look over there?

4 A. No, I was focused on him.

5 Q. So at some point you told him to stop; is that
6 right?

7 A. Yes.

8 Q. Do you recall what you said?

9 A. I said, stop.

10 Q. And did he stop?

11 A. Yes. I don't recall how many times I had to yell
12 stop.

13 Q. Was there a period of time when you yelled stop
14 and he kept walking toward you?

15 A. Not that I recall.

16 Q. And after he stopped, what is the next thing you
17 did?

18 A. Told him to drop down to his knees.

19 Q. And did he do that?

20 A. I had to tell him several times. I believe at
21 that point, too, he dropped his hands again. I told him
22 to get his hands back up. I was having to give the vast
23 majority of my commands several times. He seemed
24 reluctant to follow my commands but, eventually, after
25 several commands, he did drop down to his knees.

1 Q. Approximately how many commands did you have to
2 make before he dropped to his knees?

3 A. I estimate two to three.

4 Q. At that point were you yelling?

5 A. Yes.

6 Q. Did he say anything in response?

7 A. Not that I heard.

8 Q. Did you ever hear him say anything in response to
9 any of your commands?

10 A. No, not that I heard.

11 Q. When he initially dropped to his knees, was he
12 kneeling and facing toward you?

13 A. Yes.

14 Q. On both knees?

15 A. I don't recall. At that point I simply tell a
16 person to drop down to their right next and then their
17 left knee. I would assume it was in some sort of that
18 fashion and he eventually got down on both knees, as I
19 recall.

20 Q. And where was his hands at this point?

21 A. As I said, he had dropped his hands. I had
22 called him to get back up. There was a point at
23 which when I was telling him to do this he was on both his
24 knees and his hands were in the air.

25 Q. And then what happened next?

1 A. I told him to put his hands on the ground in
2 front of him.

3 Q. Did he do that?

4 A. Yes.

5 Q. Did he put his hands with open palm on the ground
6 in front of him?

7 A. I couldn't tell. It was rather dark out. He put
8 his hands out on the ground in front of him.

9 Q. Could you see his hands?

10 A. I couldn't see if there was really anything in
11 his hands. I could just see that they were on the ground
12 and I couldn't tell if he had, you know, splayed fingers
13 or he had it on the side of his hands or what, but his
14 hands were on the ground in front of him. I couldn't see
15 anything with real definition.

16 Q. And you couldn't tell if he was with open palms
17 or his fists?

18 A. I couldn't tell, no.

19 Q. And then what happened?

20 A. I told him to slide away from his hands until he
21 was flat on his stomach.

22 Q. And what did he do?

23 A. He didn't comply initially, but after a few times
24 he eventually did that.

25 Q. And how many times did you have to make that

1 command before he complied?

2 A. I'd say two to three again.

3 Q. And then what happened after he complied with
4 that command?

5 A. He went down to his stomach, he dropped to his
6 stomach and he was down there for approximately a second.

7 Q. And then what happened?

8 A. He pushed himself back up, got back up on to his
9 knees.

10 Q. Were his hands still on the ground?

11 A. No, I believe at that point they were at his
12 side, although I don't recall specifically, but he pushed
13 up and raised up off the ground.

14 Q. And was he facing you?

15 A. Yes.

16 Q. And what happened next?

17 A. I told him to get back on the ground -- oh,
18 excuse me. Take a step back there. I began yelling, do
19 not get up, do not get up, get on your stomach, that sort
20 of thing. He rose up. I again told him get on his
21 stomach again.

22 Q. And what's the next thing he did?

23 A. After several commands, as I recall, he went back
24 down to his stomach. And at that point I began telling
25 him to get his arms out and get his arms out. At that

1 point he essentially pushed up and sprinted directly at
2 me.

3 Q. Can you describe how he stood up at that point?

4 A. He didn't stand up. Essentially, what happened
5 is he kind of brought his arms in to kind of a pushup
6 position. He did essentially a pushup and his body got
7 into somewhat of a mod- -- I want to describe it like a
8 modified sprinter stance with, you know, kind of the back
9 arched. I remember seeing like his shoulders and his
10 head, and then he went from pushup to that sprinter stance
11 and then directly at me.

12 Q. Sprint?

13 A. Sprinting, yes.

14 Q. And leaning forward?

15 A. Yes.

16 Q. And what's the next thing that happened?

17 A. It was all happening extremely rapidly. I felt
18 like I was yelling, but it seemed like my vision went
19 directly on to him. I heard something reminiscent like a
20 bang, clack or a bang, clack, clack. It was a bang and a
21 clack. It was just two distinct sounds. And what seemed
22 like an instant after that, I remember thinking to myself,
23 oh, my God, he's still coming, he's not stopping. And
24 once he had gotten to within about 10 to 15 feet of me, I
25 felt that he was coming to kill me, kill my partner, take

1 my gun, so I pulled the trigger.

2 Q. Okay. Now, you said bang and clack?

3 A. Yes.

4 Q. The bang that you heard, did you associate that
5 with a particular weapon that was at the scene?

6 A. It was very -- very kind of strange to me. The
7 sound was -- it seemed altered. When my gun fired I
8 didn't even hear it. I just heard a sound like a pop. I
9 did not hear Patty's shot, even though she was just to my
10 right. I can only assume that with the two distinct
11 sounds, it may have been, like guessing --

12 MS. FOWLER: Don't guess.

13 THE WITNESS: Oh. In my estimation at that point
14 I assumed it was the Sage round, the fire, and then the
15 coil of the spring-loaded chambers for additional Sage
16 rounds will rotate. So if you fire a shot it rotates to
17 get to the next shot because it makes kind of a distinct
18 sound.

19 MR. SCOTT: Q. And you heard that sound?

20 A. Yes, that's I what believed it was.

21 Q. So you heard -- was that the bang, clack?

22 A. I think.

23 Q. All right. And when you heard the bang, clack,
24 did it appear to you that Mr. Desantis was wounded?

25 A. No, he just kept coming.

1 Q. So you didn't hear or see anything to -- that
2 would indicate to you that he'd been hit?

3 A. No.

4 Q. Correct?

5 A. Hm-m.

6 Q. Correct?

7 A. Correct. That is correct, yes.

8 Q. You didn't think he'd been hit?

9 A. No.

10 Q. Did you hear a rifle fired?

11 A. Say again.

12 Q. Did you hear a rifle being fired?

13 A. Not with any certainty, no.

14 Q. So the only thing you recall hearing was the
15 bang, clack from what you think was the Sage?

16 A. Yes.

17 Q. And approximately how much time passed from when
18 you heard the bang, clack of the Sage to the time you
19 fired?

20 A. It was really enough for me to think that, oh, my
21 God, he's not stopping. Within a second.

22 Q. Okay. So a second or less?

23 A. Yeah.

24 Q. Are you familiar with the term shoot and assess?

25 A. Not entirely.

1 Q. Had you ever heard that term used in any
2 training?

3 A. We were trained to shoot to stop, followed by an
4 area assessment.

5 Q. What is area assessment?

6 A. The way I was trained in the Contra Costa academy
7 was to shoot to stop, that is, shoot until the threat has
8 stopped, that the threat is no longer a threat to you, at
9 which time you essentially assess the area for any other
10 threats, other threats to anybody else, you, yourself,
11 that type of thing.

12 Q. Have you ever been trained to try to determine if
13 the person you shot had been hit before you fire another
14 shot?

15 A. To assess if the person had been hit?

16 Q. Yes.

17 A. No.

18 Q. Okay. How many shots did you hear fired, total?

19 A. Shots from what?

20 Q. From anything. When you were there.

21 A. I heard the bang, clack and my -- and my pistol,
22 and that was it.

23 Q. So you did not hear the rifle?

24 A. No.

25 Q. Correct?

1 A. No, I did not.

2 Q. Well, let me ask it this way. Did you hear a
3 rifle fire?

4 A. Not that I could hear, not that I could
5 distinguish.

6 Q. Did you hear your gun discharge?

7 A. Yes.

8 Q. Did you hear Officer Mann's gun discharge?

9 A. No, I did not.

10 Q. Why did you only fire one shot?

11 A. Because immediately after I fired my shot, he
12 went down.

13 Q. And I think you've described how he fell. After
14 he fell, what's the next thing you did?

15 A. At that point we -- still with guns drawn. He
16 was not moving. We approached to take him into custody.

17 Q. Oh. I'd like to get back to this diagram, and if
18 you could -- have you got a pen handy or -- yeah, you have
19 one there. Next to the X could you put the number 1
20 there. So when you were talking about when you first got
21 there and they were talking -- the man and the woman were
22 talking by the front door, that would be number 1.

23 A. M-hm.

24 Q. Could you give me an approximation -- and write
25 in number 2 there -- where Mr. Desantis was when he went

STATE OF CALIFORNIA

I do hereby certify that the witness in the foregoing deposition was by me duly sworn to testify the truth, the whole truth, and nothing but the truth in the within-entitled cause; that said deposition was taken at the time and place therein stated; that the testimony of the said witness was reported by me, a Certified Shorthand Reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting; that thereafter, the witness was given an opportunity to read and correct the deposition transcript, and to subscribe the same; that if unsigned by the witness, the signature has been waived in accordance with stipulation between counsel for the respective parties.

And I further certify that I am not of counsel or attorney for either or any of the parties to said deposition, nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand the 28th
day of November, 2007.

Judy L. Granfield
Certified Shorthand Reporter

CSR No. 47 48